

CHAPTER 91: NUISANCES

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§ 91.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DAY. Business days, excluding weekends and holidays.

GARBAGE. All organic household waste, offal, animal and vegetable matter prepared or intended for the use as food, condemned foodstuffs and materials, and substances, materials and things ordinarily disposed of in containers and incinerators by hotels, restaurants, stores, hospitals, apartment houses, and private dwellings.

NUISANCE VEGETATION. Includes one or all of the following:

- (1) Any grasses and/or weeds exceeding 9 inches in height;
- (2) Rank vegetation; and
- (3) Any vegetation that obscures the visual clearance at street intersections.

OWNER. Record owner and any record contract purchasers of real estate, all as shown by the records of the Huntington or Wells County Courthouse.

PROPERTY. Lots or parcels of real estate including, in addition to those within their respective boundaries, all of the grounds lying between the property line and the improved portion of adjacent streets or alleys.

RANK VEGETATION. Any vegetation, living or dead, that acts as a habitat for mosquitoes, flies, bees, mice, snakes, rats, or other insects or animals that pose a hazard to the public health.

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TRASH. All rubbish and refuse including, but not limited to, glass bottles and containers, broken glass, beer and soft drink cans, rubber products, metals, rags, household appliances, construction debris, automotive parts, and tires.

VEGETATION. Any plant life, including but not limited to molds, fungi, algae, herbs, grasses, flowers, shrubs, bushes, and trees.

WEEDS. Any grass-like vegetation, including but not limited to those that bear seeds capable of being spread by the wind, poison ivy, poison oak, thistles, wild carrot, straw, cocklebur, barberry brush, ragweed, and other like vegetation.

YARD WASTE. Including but not limited to: grass clippings, garden waste, tree limbs, and leaves.
(Ord. 2006-8, passed 3-15-2006)

§ 91.02 VIOLATIONS.

(A) It shall be unlawful for the owner of any lot within the corporate limits of the town to allow, suffer, or permit any garbage, trash, yard waste, or nuisance vegetation to be deposited on, grow on, or remain on any such lot in a manner other than those exempted in § 91.03 of this chapter.

(B) Whenever and wherever garbage, trash, yard waste, or nuisance vegetation exists on any lot within the corporate limits of the town, which is not exempted by this chapter, the same shall be a public nuisance and a violation of this chapter.

(Ord. 2006-8, passed 3-15-2006) Penalty, see § 10.99

§ 91.03 EXEMPTIONS.

The nuisance vegetation provisions of this chapter shall not apply to real estate used for the commercial growth of any agricultural products including but not limited to corn, hay, wheat, or soybeans; nor shall it apply to the keeping of pastureland. The nuisance vegetation provisions of this chapter shall also not apply to natural prairie lands or forests established and maintained by a property owner based on a land management plan prepared or certified by a registered landscape architect or other horticulture specialist. Such fields, pastures, and natural lands shall not be maintained within 25 feet of property lines where adjacent lots are used for residential purposes, shall not obstruct visual clearance at intersections, and shall not be maintained within 15 feet of the right-of-way of a public street or alley.
(Ord. 2006-8, passed 3-15-2006)

§ 91.04 INSPECTION AND NOTICE.

(A) If it is found that garbage, trash, and yard waste are being permitted to be deposited on, grow on, or remain on such lots, a notice will be sent to the owner that the violation(s) must be removed within 30 days from the date of the notice.

(B) High grass, or nuisance vegetation, if found to violate this section, must be removed or cut within 5 days from date of notice.

(C) The notice shall be sent to the owner of record as listed on the property transfer books maintained by the Huntington or Wells County Auditor's Office and to the resident if not the same as the owner.

(Ord. 2006-8, passed 3-15-2006; Am. Ord. 2006-13, passed 10-18-2006) Penalty, see § 10.99

§ 91.05 ENFORCEMENT.

(A) If any owner of any lot shall fail to remove or abate such garbage, trash, yard waste, or nuisance vegetation after receiving notice, then the Town Manager and/or Marshal may cause the same to be removed or otherwise abated by referring such action to the Public Works Department which shall either abate the nuisance or contract with a private entity to accomplish such abatement. At the time of the abatement, the Town Manager and/or Marshal and/or private entity shall be prepared to provide the property owner a copy of the issued notice pursuant to § 91.04 and a copy of the town code section applicable.

(B) (1) When the town has abated the nuisance, a statement shall be prepared showing the cost of the work performed and shall bill the owner of record. Such bill shall be due and payable at the time of its receipt by the property owner and shall be calculated by:

(a) Multiplying the hourly rate of each employee involved in the administration of the notice and the removal of the nuisance by 2.5 (to accommodate administrative costs) and then by the number of hours each applied to the violation (in increments of no less than 1/2 hour); and

(b) Adding to that figure any costs for rented equipment or contracted labor required to complete the work.

(2) The minimum bill shall not be less than \$200 for each property.

(C) When the full amount due to the town is not paid by the owner within 30 days after the work has been performed, as provided in division (B) above, then the Town Clerk-Treasurer shall cause to be recorded in the County Recorder's office a sworn statement showing the cost and expense incurred for the work, the date the work was completed, and the location of the property on which the work was performed. The recordation of such sworn statement shall constitute a lien on the property, and shall

remain in force and effect for the amount due on principal and interest, plus costs, if any, for collection, until final payment has been made. The costs and expenses shall be collected in the manner fixed by law for the collection of real estate taxes and further shall be subject to a delinquent penalty the same as real estate taxes in the event same is not paid in full on or before the date the tax bill on which said charges appear delinquent. Sworn statements recorded in accordance with the provisions hereof shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily, and shall be full notice to every person concerned that the property designated or described in the statement and that the same is due and collectable as provided by law. (Ord. 2006-8, passed 3-15-2006)

§ 91.06 APPEAL PROCEDURE.

(A) Any property owner who has received a notice or bill through the provisions of this chapter may appeal such action to the Town Council by appearing either in person or through a representative at the next regularly scheduled Council meeting held following the receipt of such notice or bill. The Town Council shall consider all appeals based on the presence of garbage, trash, yard waste, or nuisance vegetation as defined in this chapter. The Town Council may:

- (1) Interpret the definitions of this chapter relative to the condition of the subject property; and
- (2) Grant extensions of the time provided for bringing a property into compliance.

(B) All abatement and collection procedures shall be suspended pending the outcome of appeals made by property owners to the Town Council. However, upon a finding against the appeal by the Town Council, the property owner shall comply with this chapter within 72 hours of that finding. The minimum bill for work performed through this chapter following an unsuccessful appeal and continued failure to abate shall be \$500.

(Ord. 2006-8, passed 3-15-2006)